

Subpart A—Definitions

§ 1028.100 Definitions.

Refer to §1010.100 of this chapter for general definitions not noted herein. To the extent there is a differing definition in §1010.100 of this chapter, the definition in this section is what applies to part 1028. Unless otherwise indicated, for purposes of this part:

(a) *Acquiring institution* means a person authorized by the operator of a credit card system to contract, directly or indirectly, with merchants or other persons to process transactions, including cash advances, involving the operator's credit card.

(b) *Credit card* has the same meaning as in 15 U.S.C. 1602(k). It includes charge cards as defined in 12 CFR 226.2(15).

(c) *Foreign bank* means any organization that is organized under the laws of a foreign country; engages in the business of banking; is recognized as a bank by the bank supervisory or monetary authority of the country of its organization or the country of its principal banking operations; and receives deposits in the regular course of its business. For purposes of this definition:

(1) The term foreign bank includes a branch of a foreign bank in a territory of the United States, Puerto Rico, Guam, American Samoa, or the U.S. Virgin Islands.

(2) The term foreign bank does not include:

(i) A U.S. agency or branch of a foreign bank; and

(ii) An insured bank organized under the laws of a territory of the United States, Puerto Rico, Guam, American Samoa, or the U.S. Virgin Islands.

(d) *Issuing institution* means a person authorized by the operator of a credit card system to issue the operator's credit card.

(e) *Operator of a credit card system* means any person doing business in the United States that operates a system for clearing and settling transactions in which the operator's credit card, whether acting as a credit or debit card, is used to purchase goods or services or to obtain a cash advance. To fall within this definition, the operator must also have authorized another per-

son (whether located in the United States or not) to be an issuing or acquiring institution for the operator's credit card.

(f) *Operator's credit card* means a credit card capable of being used in the United States that:

(1) Has been issued by an issuing institution; and

(2) Can be used in the operator's credit card system.

Subpart B—Programs

§ 1028.200 General.

Operators of credit card systems are subject to the program requirements set forth and cross referenced in this subpart. Operators of credit card systems should also refer to Subpart B of Part 1010 of this Chapter for program requirements contained in that subpart which apply to operators of credit card systems.

§ 1028.210 Anti-money laundering programs for operators of credit card systems.

(a) *Anti-money laundering program requirement.* Effective July 24, 2002, each operator of a credit card system shall develop and implement a written anti-money laundering program reasonably designed to prevent the operator of a credit card system from being used to facilitate money laundering and the financing of terrorist activities. The program must be approved by senior management. Operators of credit card systems must make their anti-money laundering programs available to the Department of the Treasury or the appropriate Federal regulator for review.

(b) *Minimum requirements.* At a minimum, the program must:

(1) Incorporate policies, procedures, and internal controls designed to ensure the following:

(i) That the operator does not authorize, or maintain authorization for, any person to serve as an issuing or acquiring institution without the operator taking appropriate steps, based upon the operator's money laundering or terrorist financing risk assessment, to guard against that person issuing the operator's credit card or acquiring merchants who accept the operator's

credit card in circumstances that facilitate money laundering or the financing of terrorist activities;

(ii) For purposes of making the risk assessment required by paragraph (b)(1)(i) of this section, the following persons are presumed to pose a heightened risk of money laundering or terrorist financing when evaluating whether and under what circumstances to authorize, or to maintain authorization for, any such person to serve as an issuing or acquiring institution:

(A) A foreign shell bank that is not a regulated affiliate, as those terms are defined in §1010.605(g) and (n) of this Chapter;

(B) A person appearing on the Specially Designated Nationals List issued by Treasury's Office of Foreign Assets Control;

(C) A person located in, or operating under a license issued by, a jurisdiction whose government has been identified by the Department of State as a sponsor of international terrorism under 22 U.S.C. 2371;

(D) A foreign bank operating under an offshore banking license, other than a branch of a foreign bank if such foreign bank has been found by the Board of Governors of the Federal Reserve System under the Bank Holding Company Act (12 U.S.C. 1841, *et seq.*) or the International Banking Act (12 U.S.C. 3101, *et seq.*) to be subject to comprehensive supervision or regulation on a consolidated basis by the relevant supervisors in that jurisdiction;

(E) A person located in, or operating under a license issued by, a jurisdiction that has been designated as non-cooperative with international anti-money laundering principles or procedures by an intergovernmental group or organization of which the United States is a member, with which designation the United States representative to the group or organization concurs; and

(F) A person located in, or operating under a license issued by, a jurisdiction that has been designated by the Secretary of the Treasury pursuant to 31 U.S.C. 5318A as warranting special measures due to money laundering concerns;

(iii) That the operator is in compliance with all applicable provisions of

subchapter II of chapter 53 of title 31, United States Code and this chapter;

(2) Designate a compliance officer who will be responsible for assuring that:

(i) The anti-money laundering program is implemented effectively;

(ii) The anti-money laundering program is updated as necessary to reflect changes in risk factors or the risk assessment, current requirements of this chapter, and further guidance issued by the Department of the Treasury; and

(iii) Appropriate personnel are trained in accordance with paragraph (b)(3) of this section;

(3) Provide for education and training of appropriate personnel concerning their responsibilities under the program; and

(4) Provide for an independent audit to monitor and maintain an adequate program. The scope and frequency of the audit shall be commensurate with the risks posed by the persons authorized to issue or accept the operator's credit card. Such audit may be conducted by an officer or employee of the operator, so long as the reviewer is not the person designated in paragraph (b)(2) of this section or a person involved in the operation of the program.

Subpart C—Reports Required To Be Made by Operators of Credit Card Systems

§ 1028.300 General.

Operators of credit card systems are subject to the reporting requirements set forth and cross referenced in this subpart. Operators of credit card systems should also refer to Subpart C of Part 1010 of this Chapter for reporting requirements contained in that subpart which apply to operators of credit card systems.

§§ 1028.310–1028.320 [Reserved]

§ 1028.330 Reports relating to currency in excess of \$10,000 received in a trade or business.

Refer to §1010.330 of this Chapter for rules regarding the filing of reports relating to currency in excess of \$10,000 received by operators of credit card systems.